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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF KERN**

MARTIN HERNANDEZ, individually, and on
 behalf of all others similarly situated,

Plaintiff,

v.

KW CALIFORNIA, a corporation; KW
 PLASTICS OF CALIFORNIA, an unknown
 entity; and DOES 1 through 10, inclusive,

Defendants.

Case No. BCV-23-100346

CLASS ACTION

*[Assigned for all purposes to: Hon. T. Mark
 Smith, Dept. T-2]*

**[PROPOSED] JUDGMENT AND ORDER
 GRANTING PLAINTIFF'S MOTION
 FOR FINAL APPROVAL OF CLASS
 ACTION SETTLEMENT**

FINAL APPROVAL HEARING

Date: December 4, 2024
 Time: 8:30 a.m.
 Dept.: T-2

Complaint filed: February 3, 2023
 FAC filed: July 25, 2023
 Trial date: Not set

1 On or around July 10, 2024, this Court issued an Order Granting Preliminary Approval of
2 Class Action Settlement. Plaintiff Martin Hernandez (“Plaintiff”) now seeks an order granting final
3 approval of the Class Action and PAGA Settlement Agreement and Class Notice (the “Settlement
4 Agreement”). The Settlement Agreement is attached to the Declaration of Justin F. Marquez in
5 Support of Plaintiff’s Motion for Final Approval of Class Action Settlement as **Exhibit 1**.

6 Due and adequate notice having been given to the Class, and the Court having reviewed and
7 considered the Settlement, Plaintiff’s Notice of Motion and Motion for Final Approval of Class
8 Action Settlement, the supporting declarations and exhibits thereto, all papers filed and proceedings
9 had herein, and the absence of any written objections received regarding the proposed settlement,
10 and having reviewed the record in this action, and good cause appearing therefore,

11 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

12 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
13 Settlement filed in this case.

14 2. The Court has jurisdiction over all claims asserted in the Action, Plaintiff, the
15 Settlement Class Members, and KW Plastics of California (“Defendant”). Because adequate notice
16 was disseminated, and all Class Members were given the opportunity to request exclusion, the Court
17 has personal jurisdiction over the Class Members’ claims. The Court has subject matter jurisdiction
18 over this matter, including jurisdiction to approve the settlement and grant final certification.

19 3. The Court finds that the Settlement Agreement and all its terms and provisions appear
20 to be fair, adequate, and reasonable and therefore meets the requirements for final approval. The
21 Court grants final approval of the Settlement and the Settlement Class based upon the terms set forth
22 in the Settlement Agreement attached to the Declaration of Justin F. Marquez in Support of Plaintiff’s
23 Motion for Final Approval of Class Action Settlement as **Exhibit 1**.

24 4. The Court finds that the Settlement appears to have been made and entered into in
25 good faith and is the product of arm’s-length negotiations by experienced counsel who have done a
26 meaningful investigation of the claims in the dispute. The Settlement and all of its terms and
27 provisions are fully and finally approved as fair, reasonable, and adequate and in the best interests of
28 the Parties. The Parties are hereby directed to implement the Settlement subject to the limitations on

1 the requested fees and enhancements as set forth below.

2 5. Plaintiff and all Participating Class Members, on behalf of themselves and their
3 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
4 and assigns, shall have, by operation of this Final Order and Judgment, fully, finally, and forever
5 released, relinquished, and discharged Defendant from all Released Claims as defined in the
6 Settlement.

7 6. Plaintiff, individually and in his representative capacity on behalf of all class members
8 who do not opt-out will release the Released Parties from all Released Class Claims. The term
9 “Released Class Claims” is defined as (i) all claims that were alleged, or reasonably could have
10 been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in
11 the course of the Action including any and all claims for: (1) failure to pay minimum and straight
12 time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to
13 authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure
14 to provide accurate itemized wage statements; (7) failure to produce requested employment
15 records; and (8) violation of California’s Unfair Competition Law, California Business and
16 Professions Code §§ 17200, et seq. arising out of the violations referenced in the Action (“Released
17 Class Claims”). To the extent based on facts alleged on the Operative Complaint or the PAGA
18 Letter, the Released Class Claims encompass, but are not limited to, all claims pursuant to the
19 applicable IWC Wage Orders, and Labor Code §§ 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7,
20 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 1198.5. Except as set forth in
21 Section 5.2.1 of the Settlement Agreement, Participating Class Members do not release any other
22 claims, including claims for vested benefits, wrongful termination, violation of the Fair
23 Employment and Housing Act, unemployment insurance, disability, social security, workers’
24 compensation, or claims based on facts occurring outside the Class Period.

25 7. As of the Effective Date and the date when Defendant fully funds the entire Gross
26 Settlement Amount, all members of the Settlement Class, except those that made a valid and timely
27 request to be excluded from the Settlement Class and Settlement, waive, release, discharge, and
28 promise never to assert in any forum or otherwise make a claim against any of the Released Parties

1 for any of the Released Claims arising during the Settlement Period. No class members excluded
2 themselves or objected to the Settlement.

3 8. All Aggrieved Employees, including any Non-Participating Class Members who are
4 Aggrieved Employees, are deemed to release, on behalf of themselves and their respective former
5 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the
6 Released Parties from all claims, rights, demands, liabilities and causes of action for civil penalties
7 under the PAGA, that Aggrieved Employees have had, now have, or may have in the future against
8 Released Parties based on any acts or omissions occurring during the PAGA Period and based on the
9 PAGA Period facts stated in the Action, and the PAGA Notice, or ascertained in the course of the
10 Action, including any and all claims for PAGA penalties based on alleged: (1) failure to pay
11 minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal
12 periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at
13 termination; and (6) failure to provide accurate itemized wage statements (the “Released PAGA
14 Claims”). The Released PAGA Claims include, but are not limited to, claims for PAGA penalties
15 based on alleged violation of Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7,
16 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 1198.5. Any Aggrieved Employees
17 who submitted a valid and timely Request for Exclusion are still entitled to their Individual PAGA
18 Payment and have no right or ability to opt out of the portion of this Settlement releasing the Released
19 PAGA Claims.

20 9. The Parties shall bear their own respective attorneys’ fees and costs, except as
21 otherwise provided for in the Settlement and approved by the Court.

22 10. The Court finds the Class satisfies all applicable requirements of Code of Civil
23 Procedure section 382, California Rule of Court, Rule 3.769, and due process. Solely for purposes
24 of effectuating the settlement, the Court finally certified the following Class, all persons who were
25 employed by KW Plastics of California in California as hourly-paid or non-exempt employees during
26 the Class Period. The Class Period is defined as the period from February 3, 2019 through March
27 15, 2024.

28 11. The Court finds the Notice of Class Action Settlement provided to the Class conforms

1 with the requirements of California Rules of Court 3.766 and 3.769, and constitutes the best notice
2 practicable under the circumstances, by providing individual notice to all Class Members who could
3 be identified through reasonable effort, and by providing due and adequate notice of the proceedings
4 and of the matters set forth therein to the Class Members, including but not limited to notice of the
5 material terms and provisions of the Settlement and their rights under the Settlement, their right to
6 exclude themselves from the Settlement, their right to appear at the Final Approval Hearing, and the
7 binding effect of the orders and judgment, whether favorable or unfavorable, on Class Members who
8 do not opt-out of the Settlement by submitting timely and valid Requests for Exclusion. The Notice
9 fully satisfies the requirements of Code of Civil Procedure section 382 and due process.

10 12. The Court finds the Gross Settlement Amount, the Net Settlement Amount, and the
11 methodology used to calculate and pay each Participating Class Member's Individual Class Payment
12 are fair and reasonable and authorizes the Settlement Administrator to pay the Individual Class
13 Payments to the Participating Class Members in accordance with the terms of the Settlement.

14 13. Defendants shall pay a total of \$300,000.00 to resolve this litigation.

15 14. From the Gross Settlement Amount, \$15,000.00 shall be paid to the California Labor
16 and Workforce Development Agency, representing 75% of the penalties awarded under the terms of
17 the Joint Stipulation and Amendment pursuant to the Labor Code Private Attorneys General Act of
18 2004, California Labor Code section 2698, *et seq.* \$5,000.00 will be distributed, pro rata, based on
19 weeks worked to all PAGA Aggrieved Employees, representing 25% of the penalties awarded.

20 15. From the Gross Settlement Amount, \$10,000.00 shall be paid to Plaintiff for his
21 service as class representative and in recognition of the Plaintiff's general release of individual
22 claims.

23 16. From the Gross Settlement Amount, \$5,990.00 shall be paid to the Settlement
24 Administrator, Apex Class Action, LLC ("Apex").

25 17. The Court hereby confirms Justin F. Marquez, Benjamin H. Haber, and Daniel J.
26 Kramer of Wilshire Law Firm, PLC as Class Counsel.

27 18. From the Gross Settlement Amount, Class Counsel is awarded \$100,000.00 for their
28 reasonable attorneys' fees and \$20,000 for their reasonable costs incurred in the Action. The fees

1 and costs shall be distributed to Class Counsel as set forth in the Settlement. The Court finds that
2 the fees are reasonable in light of the benefit provided to the Class.

3 19. Notice of entry of this Final Approval Order and Judgment shall be given to Class
4 Members by posting a copy of the Final Approval Order and the Judgment on Apex's website within
5 ten (10) days after the Final Approval Hearing for a period of at least one hundred eighty (180)
6 calendar days after the date of mailing Individual Class Payments and Individual PAGA Payments.

7 20. At least five (5) calendar days prior to the Effective Date, the Settlement
8 Administrator will provide the Parties with an accounting of the Total Settlement Payment and
9 Employer portion of payroll taxes to be paid by Defendant pursuant to the terms of the Settlement
10 Agreement. Within fourteen (14) days of the Effective Date, Defendant will fund the gross
11 Settlement Amount to the Settlement Administrator.

12 21. The Settlement Administrator shall mail the Settlement Payments to the Class
13 Members within fourteen (14) calendar days of receipt of the Gross Settlement Amount from
14 Defendant, provided the Settlement Administrator has delivered to the Parties an accounting of the
15 amounts to be paid by Defendant pursuant to the terms of the Settlement Agreement. Any checks
16 issues by the Settlement Administrator to Class Members will be negotiable for at least one hundred
17 eighty (180) calendar days from the date of their issuance. Uncashed settlement checks will be
18 automatically cancelled in one hundred eighty (180) calendar days after the issuance and the residue
19 funds will be distributed by the Settlement Administrator to the *Cy Pres* recipient, CASA of Kern
20 County. Without affecting the finality of this Order in any way, and in accordance with California
21 Rules of Court, Rule, 3.769, this Court retains continuing jurisdiction over the implementation,
22 interpretation, and enforcement of the Settlement with respect to all Parties to this action, and their
23 counsel of record.

24 22. Plaintiff's Motion for Final Approval of Class Action Settlement is hereby granted
25 and the Court directs that judgment shall be entered in accordance with the terms of this Order.

26 23. The Court hereby sets a hearing date of _____ at _____ am for a
27 hearing on the final accounting and distribution of the settlement funds. A Final Report, including
28 any declaration from the Settlement Administrator regarding compliance, shall be filed with the

1 Court no later than _____ .

2 **IT IS SO ORDERED.**

3
4 DATE:

Hon. T. Mark Smith
Kern County Superior Court

PROOF OF SERVICE

Hernandez v. KW California, et al.
BCV-100346

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rebecca.padilla@wilshirelawfirm.com.

On November 7, 2024, I served the foregoing, **[PROPOSED] JUDGMENT AND ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Jay L. Rosenlieb (SBN 109737)
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Attorney for Defendant, *KW Plastics of California*

- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.
- (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on **November 7, 2024**, at Los Angeles, California.



Rebecca Padilla